

Attorneys for Plaintiff KIMBERLY ALEKSICK

KIMBERLY ALEKSICK, individually and)
on behalf of other members of the general)
public similarly situated.)
)
Plaintiff.)
v.)
)
)
)
7-ELEVEN, INC., a Texas Corporation;)
MICHAEL TUCKER, an individual; and)
DOES 1-50, Inclusive.)
)
Defendants)
)

CASE NO. 08-CV-59
(CLASS ACTION)
PLAINTIFF'S EVIDENTIARY
OBJECTIONS
Oral Argument Requested
Document Electronically Filed
Date: March 3, 2008
Time: 8:30 a.m.
Dept.: 12
Judge: Hon. Napoleon A. Jones, Jr.

DEFINITIONS

Authentication: Federal Rules of Evidence Section 901

(a) The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.

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Foundation: Federal Rules of Evidence Section 602

A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.

Relevance: Federal Rules of Evidence Sections 401 and 402

Evidence must be relevant for it to be admissible.

Hearsay: A statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.

Plaintiff objects to Exhibit A attached to the Declaration of Eric Welter filed in support of Defendant 7-ELEVEN's Motion for Judgment on the Pleadings as set forth below.

Paragraph 2

Attached as Exhibit A is a true and correct copy of the franchise agreement between 7-Eleven, Inc. and Michael Tucker dated March 13, 2004, for 7-Eleven Store No. 22818. An excerpt from this document is attached to Plaintiff's First Amended Complaint.

Grounds for Objection:

Lack of authentication; lack of foundation; relevance; hearsay.

Authority for Objection: Please see Definitions, pages 1-2.

In Eric Welter's Declaration, he does not represent that he has "personal knowledge" of the creation and execution of the Franchise Agreement between 7-Eleven, Inc. and Michael Tucker dated March 13, 2004, for 7-Eleven Store No. 22818. As such, the document is not properly authenticated.

In addition, any information Eric Welter heard from other individuals may not be inferred as it is hearsay. Mr. Welter did not draft or sign the Franchise Agreement. The only signatures that appear on the Franchise Agreement are "Tom Lesser," "Steve Bonnaville," "Michael Tucker," and "Jami Tucker."

1 Significantly, Plaintiff ALEKSICK has never seen, and never signed, the "Franchise
2 Agreement." To the knowledge of Plaintiff ALEKSICK, the "Franchise Agreement" has not been
3 authenticated by any signatory to the Agreement.

4 This document is also irrelevant as it asserts that the issues in this case involve provisions
5 contained within the Franchise Agreement. However, the Franchise Agreement was not attached
6 to Plaintiff's First Amended Complaint.

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8 Dated: February 15, 2008

SULLIVAN & CHRISTIANI, LLP

9
10 /s/ Alison M. Miceli

11 _____
12 William B. Sullivan,
13 Alison M. Miceli,
14 Attorneys for Plaintiff,
15 KIMBERLY ALEKSICK
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